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**APPENDIX**

**ORDER OF THE UNITED STATES COURT OF  
APPEALS FOR THE SIXTH CIRCUIT**

(Filed October 15, 1982)

No. 82-3157

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

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**ROBERT E. SADLAK,**  
*Plaintiff-Appellant,*

**vs.**

**JAMES A. RHODES, GOVERNOR, STATE OF OHIO;  
ANTHONY J. CELEBREZZE, JR., SECRETARY OF  
STATE OF OHIO; MAHONING COUNTY BOARD OF  
ELECTIONS,**

*Defendants-Appellees.*

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**ORDER**

**Before: ENGEL and KEITH, Circuit Judges; and PHILLIPS,  
Senior Circuit Judge**

This case has been referred to a panel of the Court pursuant to Rule 9(a), Rules of the Sixth Circuit. Upon examination of the briefs and record, this panel agrees unanimously that oral argument is not needed. Rule 34(a), Federal Rules of Appellate Procedure.

In this action, plaintiff is challenging the constitutionality of Section 3513.257, Ohio Revised Code, which

requires that the nominating petition of an independent candidate for elected office contain a greater number of signatures than candidates for party nomination. The district court dismissed the action and plaintiff has appealed.

Upon consideration, we agree with the district court that plaintiff's suit is barred by the prior dismissal, with prejudice, of his action in District Court Civil Action No. C80-312Y. We find no merit to plaintiff's argument that the doctrine of res judicata cannot apply since the previous action was filed in connection with a different election year.

Even if plaintiff's suit was not barred by res judicata, we would find the underlying claim to be without merit. See *Jenness v. Fortson*, 403 U.S. 431 (1970); *Anderson v. Mills*, 664 F.2d 600 (6th Cir. 1981); *Jackson v. Oglivie*, 325 F. Supp. 864 (N.D. Ill.), summarily aff'd, 403 U.S. 925 (1971).

It appearing therefore that the question on which decision of the cause depends is so unsubstantial as not to need further argument, Rule 9(d)(3), Rules of the Sixth Circuit,

It is ORDERED that the final order of the district court be and it hereby is affirmed.

ENTERED BY ORDER OF THE COURT

/s/ JOHN P. HEHMAN

Clerk

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**ORDER OF THE UNITED STATES  
DISTRICT COURT**

(Filed January 26, 1982)

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C82-8 Y

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ROBERT E. SEDLAK**

*Plaintiff,*

**vs.**

**JAMES A. RHODES, ETC. et al.**

*Defendants.*

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**ORDER**

The court has filed its memorandum and order dismissing plaintiff's complaint for want of subject matter jurisdiction. Therefore, pursuant to Rule 58, Federal Rules of Civil Procedure,

IT IS ORDERED that the complaint is hereby dismissed, with prejudice, at plaintiff's costs.

/s/ ANN ALDRICH

ANN ALDRICH, U.S. District  
Judge

**MEMORANDUM AND ORDER OF THE UNITED  
STATES DISTRICT COURT**

(Filed January 26, 1982)

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No. C82-8Y

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ROBERT E. SADLAK**

*Plaintiff,*

**vs.**

**JAMES A. RHODES, et al.**

*Defendants.*

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**MEMORANDUM AND ORDER**

**ALDRICH, J.**

Plaintiff, who is proceeding *pro se*, brings this action pursuant to 28 U.S.C. §§1331, 2201, and 1983 seeking from this Court an order declaring Ohio Revised Code §3513.257 unconstitutional in that it discriminates against independent candidates seeking political office. Plaintiff alleges in his Complaint that he is, or seeks to become, an Independent candidate for the United States Congress for the 19th Congressional District of Ohio. He further alleges that because he is an Independent candidate, he is required to obtain approximately 1,450-1,500 valid signatures on his nominating petition as opposed to 150 signatures for any Democratic or Republican candidate. Plaintiff contends that Ohio Revised Code §3513.257, which governs

Independent candidates' petitions for nomination at primary elections, is unconstitutional in that it discriminates against Independent candidates, bestows exclusive rights, privileges, and franchises on Democratic and Republican candidates to the exclusion of Independent candidates, and denies Independent candidates due process and equal protection of the laws. Plaintiff has requested this Court to declare §3513.257 unconstitutional; to enjoin the defendants from enforcing §3513.257; to order the defendants to place the plaintiff's name on the November 1982 General Election Ballot; to enjoin the State of Ohio and its subdivisions from using public funds in future elections; and to recover compensatory and punitive damages and reasonable attorney fees.

A review of past court files show that on two prior occasions, this plaintiff has challenged the constitutionality of §3513.257 and on both occasions the suits were dismissed for want of prosecution, the second dismissal being with prejudice.<sup>1</sup> A comparison of the Complaint in this action with the Complaint in Civil Action No. C80-312Y further shows that not only are the defendants identical, but that with the exception of a few additional paragraphs in the instant suit, the language utilized in the two Complaints are identical.

It is a fundamental principle in the law that a suit dismissed with prejudice serves as an adjudication on the merits which bars the bringing of another suit by the plaintiff against the same defendants on the same issues. See *Smoot v. Fox*, 340 F. 2d 301 (6th Cir. 1964). Plaintiff has again tried to challenge the constitutionality of §3513.257 after his last attempt was dismissed with prej-

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1. The previous cases were C76-74Y before the Honorable Thomas D. Lambros and C80-312Y before the Honorable William K. Thomas.

udice. It is clear to this Court that he is barred from bringing this suit against the same defendants over the same issues on the basis of res judicata.

Therefore, this Court hereby dismisses plaintiff's Complaint, with prejudice, pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure for want of subject matter jurisdiction.

**IT IS SO ORDERED.**

**/s/ ANN ALDRICH**

**ANN ALDRICH**

***United States District Court***

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**ORDER OF THE UNITED STATES  
DISTRICT COURT**

(Filed June 24, 1980)

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C80-312Y

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ROBERT E. SADLAK,  
*Plaintiff,***

**v.**

**JAMES A. RHODES, et al.,  
*Defendants.***

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**ORDER**

**THOMAS, J.**

Plaintiff in this action challenges the constitutionality of Ohio Rev. Code §3513.257. Defendants move for dismissal for failure to state a claim upon which relief can be granted. Plaintiff has not responded to the motion. The court has unsuccessfully attempted to contact plaintiff's attorney by phone on several occasions.

Plaintiff filed an earlier action challenging the constitutionality of section 3513.257, which was dismissed in May, 1979 for failure to prosecute. It appears that plaintiff's lack of interest in that suit has carried over to this action. Under the circumstances, the court dismisses plaintiff's action with prejudice for failure to prosecute.

**IT IS SO ORDERED.**

**/s/ WILLIAM K. THOMAS  
U.S. District Judge**